

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35983

LOUISIANA SOUTHERN RAILROAD, L.L.C.—LEASE EXEMPTION CONTAINING
INTERCHANGE COMMITMENT—THE KANSAS CITY SOUTHERN RAILWAY
COMPANY

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision allows Louisiana Southern Railroad, L.L.C., a Class III rail carrier, to continue to lease from The Kansas City Southern Railway Company, and to operate, approximately 165.8 miles of rail line in Louisiana. The decision also waives the 60-day advance notice requirement to employees because no employees would be adversely affected.

Decided: February 17, 2016

On January 21, 2016, Louisiana Southern Railroad, L.L.C. (LAS), filed a request for a waiver of the employee notice requirements of 49 C.F.R. § 1150.42(e). The waiver request is related to a January 20, 2016 verified notice of exemption LAS filed under 49 C.F.R. § 1150.41 to continue to lease and operate rail lines in Louisiana, in which LAS certified that its projected annual revenues as a result of this transaction would exceed \$5 million. Unless waived, § 1150.42(e) would require LAS, at least 60 days before the notice of exemption can become effective, to serve a notice of its intention to undertake the proposed transaction on the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. No opposition to this waiver request has been filed.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

BACKGROUND

LAS filed its verified notice of exemption² to continue to lease and operate approximately 165.8 miles of rail lines between: (1) a point 1,600 feet south of Highway 80 crossing near Gibsland, La., and milepost B-192 near Pineville, La.; (2) milepost 83.5 at Sibley, La., and milepost 78.8 at Minden, La., on the Sibley Branch; and (3) milepost 49.6 near Cullen, La., and milepost 78.8 at Minden on the Hope Subdivision; and (4) milepost 78.8 at Minden and milepost B-102 near Bossier, La., on the Hope Subdivision (the Lines).³ LAS and Kansas City Southern Railway Company (KCS) (the owner of the Lines) recently entered into two amended and restated lease agreements, which, among other things, extend the term of the original lease to October 31, 2025.

Because LAS has been leasing and operating the Lines and would continue to do so, LAS requests a waiver so that the authority it seeks in its exemption notice can become effective without providing notice. In support, LAS asserts that: (1) no KCS employees would be affected by the lease because no KCS employee has performed operations or maintenance on the Lines since 2005; (2) no LAS employees would be affected by the lease because LAS would continue to provide the same service and perform the same maintenance as it has since 2005; and (3) providing advance labor notice would serve no useful purpose because the transaction would mainly extend the term of the lease agreement between LAS and KCS.

DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. The Board takes seriously the requirements of the rule, but it does not appear that the purpose behind the notice requirements would be thwarted if the requested waiver is granted in this case.

The record indicates that no employees would be adversely affected by a waiver of the requirements here. LAS employees would continue to provide the same service and maintenance they have provided since 2005, and KCS employees have performed no work on the Lines since then. Because no employees would be adversely affected by the waiver of the 60-day notice

² Notice of the exemption was served and published in the Federal Register on February 5, 2016 (81 Fed. Reg. 6,325). But for the labor notice requirements, the exemption would become effective on February 19, 2016, 30 days after LAS's verified notice was filed.

³ LAS was granted authority to lease and operate portions of the rail lines in Louisiana Southern Railroad—Lease & Operation Exemption—Kansas City Southern Railway, FD 34751 (STB served Oct. 7, 2005). In a letter filed on January 29, 2016, LAS clarified the locations of the rail lines being leased.

period, we will grant the waiver request, thereby allowing the related exemption authority to lease and operate the Lines to become effective on February 19, 2016.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. LAS's request for waiver is granted, and the exemption authority to lease and operate the Lines is effective on February 19, 2016.
2. This decision is effective on its date of service.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.